

FRANKLIN I. OGELE (FO-oo40)  
LAW OFFICE OF FRANKLIN OGELE  
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NEWARK, NJ 07102  
ATTORNEY FOR OLIVER L. VELEZ

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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OLIVER L. VELEZ

INDEX #07/112799

Petitioner

CIVIL ACTION #07-CV-08524 (AKH)

vs.

ATTORNEY'S AFFIRMATION

FINANCIAL INDUSTRY  
REGULATORY AUTHORITY  
GREG CAPRA AND  
PRISTINE CAPITAL HOLDINGS, INC.

Respondents

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FRANKLIN I. OGELE, an Attorney duly admitted to practice law in the State of New York and before this Court, affirms under penalty of perjury and says:

1. I am the Attorney for Oliver L. Velez ("Petitioner"), and I have knowledge of the facts set forth herein. I submit this affirmation in support of Petitioner's Motion for a Temporary Order Restraining Respondents from proceeding with the Arbitration #07-2396.
2. The grounds for the Temporary Restraining Order are as follows:

3. On or about August 2007, Respondents, Greg Capra and Pristine Capital Holdings, Inc. filed an Arbitration Complaint before The Financial Industry Regulatory Authority (“FINRA”)<sup>1</sup>

4. On September 21, 2007, Petitioner filed a Petition to Stay the Arbitration under NY’s CPLR Article 75 with the Supreme Court of New York.

5. Included in the Petition to Stay the Arbitration was an Order to Show Cause which seeks to temporarily restrain the Defendants from proceeding with the arbitration pending the Court’s determination or ruling on the Petition to Stay the Arbitration.

6. It was precisely because of the urgency of the matter and the potential harm to Velez if the arbitration were to proceed that Velez Petition to Stay Arbitration included an Order to Show Cause.

7. The Petition to Stay Arbitration was submitted before the Honorable Jane Solomon of the New York Supreme Court.

8. On or about October 2007, Respondents Capra and Pristine Capital filed a Removal Notice which removed the Petition to Stay the Arbitration to the United States Federal Court of the Southern District of New York. On or about November 27, 2007, Defendants filed a further Motion to Compel Arbitration. The matter is currently before this Court.

9. On or about November 2007, Velez filed a Motion to Remand; Respondents Capra and Pristine Capital, have, in turn, filed a Motion to Compel Arbitration in Opposition to Velez’ Motion to Remand and Velez has responded with a Reply in

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<sup>1</sup> In or about 2007, the regulatory arm of the National Association of Securities Dealers Regulation Inc. effectively merged with the regulatory arm of the New York Stock Exchange, Inc. and adopted the FINRA name. In this Verified Complaint, we will continue to use the more familiar NASD name as opposed to the recently adopted FINRA name.

Opposition to Defendants' Motion to Compel Arbitration and in Further Opposition to Defendant's Motion for Removal.

10. Although the matter is still pending before this Court, Respondents wish to proceed with the Arbitration.

11. On December 26, 2007, I called Bola Aguda, Esq. and Terri Reicher, Esq., both of Respondent, Financial Industry Regulatory Authority, Inc. ("FINRA") to persuade them to hold off on proceeding with the Arbitration until this Court rules on the pending motions, but they both advised me that unless a Restraining Order is in place, FINRA would proceed with the Arbitration.

12 If Respondents are allowed to proceed with the Arbitration, Velez will be irreparably harmed.

13. This Attorney Affirmation, including the accompanying Notice of Motion, Motion and Form of Order were duly faxed to Respondents on 1/17/08 at:

Dan A. Druz, Esq.  
Attorney for Greg Capra and  
Fax: 732 233 1592

Terry L. Reicher, Esq.  
Attorney For FINRA  
Fax: 202 728 8894

14. For reasons set forth above, the Court should grant Velez Motion for Temporary Restraining Order requested herein.

Affirmed this 17<sup>th</sup> day of January 2008

\_\_\_\_s/s\_\_\_\_\_  
Franklin I. Ogele, Esq.

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